



**Dora**  
Department of Regulatory Agencies

**MARKET CONDUCT EXAMINATION REPORT**

**Dated February 29, 2012**

**COVERING THE PERIOD OF JANUARY 1, 2010 THROUGH  
DECEMBER 31, 2010**

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**TRANSAMERICA LIFE INSURANCE COMPANY**

4333 Edgewood Road N.E.  
Cedar Rapids, Iowa 52499

**NAIC Company Code: 86231**

**NAIC Group Code: 0468**



**CONDUCTED BY:**

**COLORADO DIVISION OF INSURANCE**

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**TRANSAMERICA LIFE INSURANCE COMPANY  
4333 Edgewood Road N.E.  
Cedar Rapids, Iowa 52499**

**MARKET CONDUCT EXAMINATION REPORT  
Dated February 29, 2012**

**COVERING THE TIME PERIOD OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2010**

**Examination Performed by:**

**State Market Conduct Examiners**

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Examiner-in-Charge**

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**And**

**Independent Contract Examiners**

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**COMPANY PROFILE**

**The following is taken directly from written documentation provided by Transamerica and has not been independently verified by the Division:**

Transamerica Life Insurance Company ("Transamerica") was originally licensed on March 19, 1962, following incorporation on April 19, 1961, in the State of Wisconsin, as a legal reserve life insurance company. The Company's original name was American Public Life Insurance Company, Inc. Life Investors Insurance Company of America acquired this Company from NN Corporation on December 31, 1975 and the executive office was moved to Cedar Rapids, Iowa. On June 30, 1976, the domicile of the Company was changed from the State of Wisconsin to the State of Iowa. On March 1, 2001, the Company's name was changed to the current Transamerica Life Insurance Company (TLIC).

During the examination, Transamerica provided policy and claims files for review that were a result of the merger of affiliates: Transamerica Occidental Life Insurance Company, Life Investors Insurance Company of America and Bankers United Life Insurance Company into Transamerica. These mergers were effective in October 2008. Transamerica provided Assumption Agreement Notices to policyholders informing them of these mergers and the assimilation and the administration of policies and claims being performed by Transamerica instead of the initial Company that wrote the business.

Transamerica Life Insurance Company was licensed in Colorado on October 10, 1968 and is licensed in all states except New York. Transamerica is authorized to sell life, accident & health, annuities and variable contracts in the state of Colorado, and sells individual life, annuities and long-term care products sold through distributors who are independent and regulated entities.

The following is Transamerica's statistics and market share information for the lines of business reviewed as of December 31, 2010:

**Contracts in-force as of December 31, 2010:**

Life (Individual):	35,001
Annuity (Individual):	2,269
Long-Term Care (Individual and Group):	10, 293

**Premium as of December 31, 2010:**

Life (Individual):	\$40,599,000*
Annuity (Individual):	\$121,071,000*
Long-Term Care (Individual and Group):	\$242, 167,000*

**Market Share as of December 31, 2010:**

Total: (as a percentage of Colorado Total Life, Accident & Health)	1.65% *
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**Market Conduct Examination  
Company Profile**

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**Transamerica Life Insurance Company**

Life: 2.48%\*

Annuity: 3.32%\*

Long-Term Care (Individual and Group): 9.38%\*

All data shown as reported to the Division for the year ending December 31, 2010

\*As shown in the 2010 edition of the Colorado Insurance Industry Statistical Report.

**PURPOSE AND SCOPE**

State market conduct examiners with the Colorado Division of Insurance (“Division”), who were assisted by independent contract examiners, reviewed certain business practices of Transamerica Life Insurance Company (“Transamerica”). This market conduct examination (“MCE”) was conducted in accordance with Colorado insurance laws, §§ 10-1-201, 10-1-203, 10-1-204, 10-1-205 and 10-3-1106, C.R.S., which empower the Commissioner to examine any entity engaged in the insurance business. All work product developed in producing this report is the sole property of the Division.

The purpose of the examination was to determine Transamerica’s compliance with Colorado insurance laws related to individual annuity, life, and long term care insurance business in Colorado. The examination involved individual products only with no group business included. The examination information contained in this report will serve only these purposes, except as otherwise provided by law pursuant to §§ 10-1-204 and 205, C.R.S. The findings and conclusions, including the Final Agency Order arising out of this examination, shall be a public record.

Examiners conducted the MCE in accordance with procedures developed by the Division, based on model procedures developed by the National Association of Insurance Commissioners (“NAIC”). The examiners relied primarily on records and materials maintained and/or provided by Transamerica. The MCE covered the period from January 1, 2010, through December 31, 2010.

The examination included review of the following:

- Company Operations and Management
- Advertising, Marketing and Sales
- Complaint Handling
- Contract Forms
- Rates
- Underwriting: Applications and Declinations Replacements
- Policyholder Service
- Utilization Review
- Claims

The final exam report is a report written by exception. References to additional practices, procedures, or files that did not contain any improprieties were omitted. Based on review of these areas, comment forms were prepared by the examiners and provided to Transamerica. The comment forms set forth any concerns and/or discrepancies identified by the examiners during the course of the examination. The comment forms contain a section that permits Transamerica to submit a written response to each of the examiners’ comments.

For the period under examination, the examiners included statutory citations and regulatory references related to insurance laws as they pertained to annuity, life and long term care insurance companies. Examination findings may result in administrative action by the Division. Examiners may not have discovered all unacceptable or non-complying practices of Transamerica. Failure to identify specific company practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any insurance company or insurance company product.

**METHODOLOGY**

The examiners reviewed Transamerica’s business practices to determine compliance with Colorado insurance law as outlined below.

<b>Statute or Regulation</b>	<b>Subject</b>
Section 10-1-128, C.R.S.	Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration.
Section 10-3-1104, C.R.S.	Unfair methods of competition - unfair or deceptive acts or practices.
Section 10-7-102, C.R.S.	Life insurance policies – requirements.
Section 10-7-103, C.R.S.	Life insurance policies – prohibition.
Section 10-7-104, C.R.S.	Exceptions.
Section 10-7-105, C.R.S.	Violation.
Section 10-7-106, C.R.S.	Exclusive right of insured in proceeds.
Section 10-7-107, C.R.S.	Nonforfeiture benefits - applicability.
Section 10-7-109, C.R.S.	Suicide no defense for nonpayment.
Section 10-7-112, C.R.S.	Interest payable on benefits or proceeds.
Section 10-7-202, C.R.S.	Policy provisions.
Section 10-7-302, C.R.S.	Compulsory policy provisions.
Section 10-7-304, C.R.S.	Computation on nonforfeiture benefit.
Section 10-7-404, C.R.S.	Authority to issue variable contracts.
Section 10-7-503, C.R.S.	Compulsory contract provisions.
Section 10-7-504, C.R.S.	Minimum nonforfeiture amounts – rules.
Section 10-7-506, C.R.S.	Computation of cash surrender benefit.
Section 10-16-106.5, C.R.S.	Prompt payment of claims – legislative declaration.
Section 10-16-107, C.R.S.	Rate regulation - rules - approval of policy forms - benefit certificates - evidences of coverage - benefits ratio - disclosures on treatment of intractable pain.
Section 10-19-103, C.R.S.	Definitions.
Section 10-19-106, C.R.S.	Rules on disclosure.
Section 10-19-107, C.R.S.	Performance standards.
Section 10-19-108, C.R.S.	Requirements for preexisting conditions.
Section 10-19-109, C.R.S.	Requirements for prior hospitalization or institutionalization.
Section 10-19-111, C.R.S.	Right to return policy - free look.
Section 10-19-112, C.R.S.	Outline of coverage-certificate.
Section 10-19-113, C.R.S.	Option for inflation adjustment - renewability.
Section 10-19-113.3, C.R.S.	Incontestability period.
Section 10-19-113.4, C.R.S.	Nonforfeiture benefits – rules.
Section 10-19-113.6, C.R.S.	Producer training requirements.
Insurance Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries And Document Requests
Insurance Regulation 4-1-4	Replacement of Life Insurance Policies and Annuities
Insurance Regulation 4-1-8	Concerning the Disclosure Requirements for Life Insurance Illustrations
Insurance Regulation 4-1-11	Concerning Suitability in Annuity Transactions
Insurance Regulation 4-2-11	Rate Filing Submissions for Health Insurance
Insurance Regulation 4-2-17	Prompt Investigation of Health Plan Claims Involving Utilization Review
Insurance Regulation 4-2-24	Concerning Clean Claim Requirements for Health Carriers
Insurance Regulation 4-4-1	Concerning the Requirements for Long-Term Care Insurance

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Insurance Regulation 4-4-4	Concerning Long-Term Care Partnership Program
Insurance Regulation 6-4-1	Privacy of Consumer Financial and Health Information

**Sampling Methodology**

In accordance with the sampling methodology and sample sizes as set forth in the 2010 NAIC Market Regulation Handbook (“Handbook”), the examiners reviewed all files that were randomly selected to constitute the samples of files from a larger population of files. Transamerica provided unique populations of annuity and long-term care sales/marketing materials, life, annuity and long-term care new business, life, annuity and long-term care declinations, life, annuity and long-term care nonforfeitures, life and annuity replacements, life and annuity surrenders and withdrawals and life, annuity and long-term care claims. In those instances where sampling was required, the examiners used ACL™ software to select random samples from the total populations.

When sampling was involved, the examiners established a minimum error tolerance level of seven percent (7%) for claims and ten percent (10%) for other samples, per the Handbook, to determine reportable exceptions. However, if the examiners determined an issue was systemic, or the sampling process precluded establishment of an exception percentage, they did not utilize a minimum error tolerance percentage.

The examiners allowed an error tolerance level of plus or minus ten dollars (\$10.00) in most cases involving monetary values. However, in cases where monetary values were generated by computer or other systemic methodology, the examiners applied a zero dollar (\$0) tolerance level in order to identify possible system errors.

**Prior Examinations**

Transamerica has not been the subject of any prior examination by the Division.

**Company Operations and Management**

The examiners reviewed Company management, organization, quality controls, record retention, antifraud plan including referral and investigation procedures for fraud allegation against a producer, and timely cooperation throughout the examination process.

**Advertising, Marketing and Sales**

Transamerica provided a listing of all the advertising and sales materials utilized during the period under examination. There was a population of advertising materials of 1,859 with a random sample of 114 brochures and other sales material reviewed for compliance to Colorado insurance laws.

**Complaint Handling**

Transamerica provided its complaint handling guidelines and/or procedures and a listing of seventeen (17) Colorado complaints received during the examination period. All complaints were reviewed for compliance with Colorado insurance law.



**Contract Forms**

Transamerica provided the listing of forms that it had determined were in use during the period under examination. The following forms were reviewed for compliance with Colorado insurance law.

<b><u>Form Name/Number</u></b>	
<b>LONG-TERM CARE</b>	
Conditional Receipt	CR-1107
Adult Day Care Center Definition	TLC 1-ADCD 1001
MIB Disclosure	TLC MIB-FCRA 408
Replacement Notice	TLC REP 1001
Disclosure Form	DF-FAC
Disclosure Form – Single Premium	DF-FAC-SP
Statement of Good Health	SGH 201
Outline of Coverage	TLC 1 (CO) 0510 OC
Outline of Coverage	TLC 1 (CO) 0810 OC
Ambulance Benefit	TLC 1-AB 1001
Application	TLC 1-ABCAPP (CO) 303
Adult Day Care Center Definition	TLC 1-ADCCD 1001
Assisted Living Facility Benefit	TLC 1-ALF (CO) 0307
Assisted Living Facility Definition	TLC 1-ALFD (CO) 0307
Alternative Payment Benefit	TLC 1-APB 1001
Benefit Eligibility	TLC 1-BE 1001
Claims Information	TLC 1-C 1001
Application	TLC 1-CAPP (CO) 303
Compound Benefit Increase Option	TLC 1-CBIO 1001
Care Coordination Benefit	TLC 1-CCB 1001
Contingent Nonforfeiture Benefit	TLC 1-CNFB (CO) 0510
Contingent Nonforfeiture Benefit and Reduced Paid-Up Contingent Nonforfeiture Benefit	TLC 1-CNFB-LP-45 1207
Continuation of Coverage	TLC 1-COC 1001
Cancellation Provision	TLC 1-CP 1001
Caregiver Training Benefit	TLC 1-CTB 1001
Deferred Benefit Increase Option	TLC 1-DBIO 1001
Eligibility Definitions	TLC 1-ED 1001
Effective Date, Premium Payment, Right to Reduce Benefits, Termination and New Coverage Offer Provisions	TLC 1-EPT (CO) 1207
Face Page	TLC 1-FP (CO) 1207
Full Restoration of Benefits	TLC 1-FROB 402
Full Return of Premium	TLC 1-FROP 1001
General Benefit Information	TLC 1-GBI 1001
General Definitions	TLC 1-GD 1001
General Exclusions & Limitations	TLC 1-GEL (CO) 1001
General Provisions	TLC 1-GP 1001
Guaranteed Purchase Option	TLC 1-GPO 1001
Hospice Care Benefit	TLC 1-HC 1001
Home Health Care Agency Definition	TLC 1-HCAD 1001
Home Health Care Definition	TLC 1-HCD 1001
Home Health Care and Adult Day Care Benefits	TLC 1-HHAD 1001

Home Modification Benefit	TLC 1-HMB 1001
Application	TLC 1-JABCAPP (CO) 303
Application	TLC 1-JCAPP (CO) 303
Joint Waiver of Premium	TLC 1-JWP 1001
Lifetime Waiver of Premium	TLC 1-LWP 1001
Medical Alert System Benefit	TLC 1-MASB 1001
Monthly Home Care Benefit	TLC 1-MHC 1001
Maintenance or Personal Care Services Definition	TLC 1-MPCD 1001
Nonforfeiture Benefit – Shortened Benefit Period	TLC 1-NFB 1001
Nursing Home Benefit	TLC 1-NH 1001
Nursing Home Definition	TLC 1-NHD 1001
Nursing Home Indemnity Payment Option	TLC 1-NIPO 1001
Restoration of Nursing Home Benefits	TLC 1-NROB 402
Patient Advocacy and Medication Management Benefits	TLC 1-PA 1001
Prescription Drug Benefit	TLC 1-PDNH 1001
Potential Rate Increase Disclosure Form	TLC 1-PRI-DF-LP 1001
Paid-Up Provision	TLC 1-PUP 1001
Personal Worksheet	TLC 1-PWS-R 1008
Personal Worksheet – Single Premium	TLC 1-PWS-R-SP 1008
Respite Care Benefit	TLC 1-RC 1001
Rate Guarantee	TLC 1-RG 1001
Reinstatement Application	TLC 1-RNSTAPP (CO) 105
Return of Premium	TLC 1-ROP 1001
Schedule Page	TLC 1-S (CO) 0510
Schedule	TLC 1-S (CO) 1207
Simple Benefit Increase Option	TLC 1-SBIO 1001
Step-Rated Compound Benefit Increase Option	TLC 1-SRBIO 1001
Spouse Survivorship – Waiver of Premium	TLC 1-SSWP 1001
Survivorship – Waiver of Premium	TLC 1-SWP 1001
Table of Contents	TLC 1-TC (CO) 1207
Therapeutic Device Benefit	TLC 1-TDB 1001
Waiver of Premium Benefit	TLC 1-WPB 1001
Endorsement	TLC END 908
Endorsement	TLC END-S 908
DRA Partnership Disclosure Notice	TLC PDN (CO) 0110
Contingent Benefit Upon Lapse Endorsement	TLC-CNNFB 1000
Contingent Benefit Upon Lapse Endorsement	TLC-CNNFB-LP-E 1207
Domestic Partner Endorsement	TLC-DPE 0102
<b>ANNUITY</b>	
Flexible Premium Deferred Annuity Transfreedom II	AF715 101 186 104
Flexible Premium Deferred Annuity Trans 6 Plus	AF794 101 197 1104
Flexible Premium Deferred Annuity Trans 10	AF810 101 198 1204
Flexible Premium Deferred Annuity Premier Special	AF844 101 174 503
Flexible Premium Deferred Annuity Trans Flex	AF905 101 203 605
Flexible Premium Deferred Annuity Chase/Preferred Choice	AF981 101 209 1207
Flexible Premium Deferred Annuity Secure Foundation	AF952 101 205 106
Flexible Premium Def Variable Anty Landmark	AV922 101 168 603
Flexible Premium Def Variable Anty Extra	AV957 101 175 603

Flexible Premium Def Variable Anty Principium/Ascent/Axiom	AV1025 101 178 903
Flexible Premium Def Variable Anty Fund Quest/SecurePath/TA Advisor Elite	AV1117 101 185 104
Flexible Premium Def Variable Anty Liberty	AV1140 101 192 604
Flexible Premium Def Variable Anty Freedom	AV1224 101 165 103
Single Premium Deferred Annuity Index Advantage, Ultima EIA	AS736 107 98 803
Single Premium Deferred Annuity Transamerica Index Opportunity	AS750 107 99 803
Single Premium Deferred Annuity Transamerica Capital Builder	AS870 107 104 1105
Single Premium Deferred Annuity Saver's Choice	AS880 107 107 0506
Single Premium Deferred Annuity Secure Income	AS888 107 109 0207
Single Premium Deferred Annuity Transamerica Select	AS896 107 111 808(R30)
Single Premium Immediate Income	ASI255 18 705
Death Benefit Rider	RGMD 5 0103
Death Benefit Rider	RGMD 8 0603
Additional Death Benefit Rider Taxpayer Plus II	RTP 17 0103
Additional Death Benefit Rider Taxpayer	RTP 18 0103
Living Benefit Rider	RGMB 35 0109
Living Benefit Rider w/ enhancement RIC 1.2	RGMB 36 0109
Living Benefit Rider RIC 1.4	RGMB 37 0809
Living Benefit Rider w/ enhancement RIC 1.2	RGMB 38 0809
Living Benefit Rider GPS	RGMB 4 0504
Living Benefit Rider	RGMB 22 1206
Access Rider	RDR 3 106
Merger Endorsement	Merge LI-TLIC
Merger Endorsement	Merge TOLIC-TLIC
Simple IRA Endorsement	AE 1293 0609
Fund Facilitation Fee	AE 1288 0608
ROTH IRA Endorsement	AE 1287 0608
30 Day Free Look	AE 1286 0608
IRA Endorsement	AE 1285 0308
Death Benefit	AE 1229 1004
Sunset Endorsement	AE 1225 604(ROP)
Sunset Endorsement	AE 1227 704
Sunset Endorsement	AE 1228 704
Sunset Endorsement	AE 1226 704
Variable Annuity Application – multiple products	VA-APP 08/10 (IC)
Variable Annuity Application – multiple products	VA-APP 05/09
Variable Annuity Application – multiple products	VA-APP 09/09
Portfolio Select application	VA APP 05/06
Secure Path application	VA-APP 12/08
TA Advisor Elite application	VA-APP 05/09 (ADV)
TA Advisor Elite application	VA-APP 08/10 (IC-DR)
TA Advisor Elite application	VA-APP 05/09 (ADVE)
Principium II application	VA-APP 12/09 (PII)
Axiom application	VA-APP 05/09 (AX)

Inheritance Builder Application	L 115 0108 CO
PIA Application	PIA APP 05/08
PIA	PIA APP 12/09
Fixed Deferred Annuity Application – Multiple products	FIXED APP 02/08
Fixed Deferred Annuity Application – Multiple products	FX-APP 12/09
Secure Rewards Application	SPIA APP 05/08
Secure Rewards Application	SPIA APP 12/09
Special Edition Select Application	SES-APP 12/09
Special Edition Select Application	FIXED APP 02/08 (ADV-SES)
Special Edition Select Application	SES – APP 12/09 (DR)
Trans 10 Annuity Application	FX-APP 12/09 (T10)
Index Advantage/Index Opportunity Application	EIA APP 05/08
Index Advantage/Index Opportunity Application	EIA APP 12/09
TransFreedom II Application	TF-FIXED APP 04/08
TransFreedom II Application	TF-FX APP 12/09
Payout Annuity Claimant's Statement	81600602
Payout Annuity Claimant's Statement	81601652.3
Annuity Claimant's Statement	81601027.4
Annuity Claimant's Statement	81601027 12 09
Annuity Claimant's Statement	81601027 04 10
<b>Life</b>	
10-Year Term Rider	1-010 81-102
Waiver Provision Rider (VUL)	1-011 06-101
Waiver Provision Rider (UL)	1-011 06-186
Accident Indemnity Rider	1-032 11-284
Waiver of Premium Rider (TL)	1-035 11-199
Estate Protection Rider	1-054 11-196
Annual Increase Rider	1-055 11-199
Insurance on Children Rider	1-058 11-805
Guaranteed Insurability Rider	1-071 11-186
Extended No-Lapse Guarantee Rider	1-072 11-102
Supplemental Adjustable Life Insurance Rider (VUL)	1-073 11-102
Supplemental Adjustable Life Insurance Rider (VUL)	1-073 11-108
Return of Premium at Surrender Rider	1-084 11-106
Guaranteed Policy Split Option Rider	1-093 11-196
Adjustable Life Insurance Policy	1-11307106
Adjustable Life Insurance Policy	1-11407106
Adjustable Life Insurance Policy	1-11507106
Joint and Last Survivor Adjustable Life Insurance Policy	1-12107108
Adjustable Life Insurance Policy	1-12307102
Adjustable Life Insurance Policy	1-12607107
Variable Universal Life Insurance Policy	1-14407102
Variable Universal Life Insurance Policy	1-14507102
Modified Single Premium Life Insurance Policy	1-15007106
Adjustable Life Insurance Policy	1-15607197
Adjustable Life Insurance Policy with Index Interest Feature	1-16007106
Return of Premium Term Life Insurance Policy	1-230 07-106
Indeterminate Premium Term Life Insurance Policy	1-303 07-107
Indeterminate Premium Term Life Insurance Policy	1-304 07-107

Indeterminate Premium Term Life Insurance Policy	1-305 07-107
Indeterminate Premium Term Life Insurance Policy	1-306 07-107
Indeterminate Premium Term Life Insurance Policy	1-322 07-107
Indeterminate Premium Term Life Insurance Policy	1-334 07-107
Paid-Up Term Life Insurance Policy	1-875 11-108
WAIVER OF PREMIUM BENEFIT RIDER - Brought through LIICA to TLIC Merger	ABWP0500 00 300
WAIVER OF PREMIUM BENEFIT RIDER – Brought through LIICA to TLIC Merger	ABWP0501 00 900
ACCIDENTAL DEATH BENEFIT RIDER	ADR01 0305
ACCIDENTAL DEATH BENEFIT RIDER	ADR04 0506
ACCIDENTAL DEATH BENEFIT RIDER	ADR07 0807
ADDITIONAL INSURED 20 YEAR TERM RIDER	AIR05 0506
ADDITIONAL INSURED RIDER	AIR06 0107 CO
ADDITIONAL INSURED BENEFIT RIDER	AIR08 0107 CO
ADDITIONAL INSURED RIDER	AIR09 0607 CO
ADDITIONAL INSURED RIDER	AIR10 0707 CO
MONTHLY DISABILITY INCOME RIDER - Brought through LIICA to TLIC Merger	ARDI0500 00 300
BASE INSURED 20 YEAR TERM RIDER	BIR03 0506
BASE INSURED RIDER	BIR05 0607 CO
BASE INSURED RIDER	BIR06 0707 CO
CHILDRENS BENEFIT RIDER	CR01 0305 CO
CHILDRENS BENEFIT RIDER	CR05 0606 CO
INTERMEDIATE ENDOWMENT BENEFIT	CR06 0906 CO
CHILDRENS BENEFIT RIDER	CR10 0807 CO
CRITICAL ILLNESS RIDER	CRT02 0408
CRITICAL ILLNESS RIDER	CRT03 0408
EARLY CASH VALUE RIDER	ECVR01 1107
INDEX UNIVERSAL LIFE POLICY	EIUL02 0707 CO
GUARANTEED INSURABILITY BENEFIT	GIR02 1006
GUARANTEED INSURABILITY RIDER	GIR04 0807
Guaranteed Minimum Withdrawal Benefit Rider	GMWB01 0108
Guaranteed Insurability Rider	ICC08 GIR01
SIMPLIFIED ISSUE TERM PRODUCT	ICC08 TL10 0108
Single Premium Whole Life Insurance Policy	ICC08-101
Guaranteed Whole Life Insurance Policy	ICC08-109
Flexible Premium Universal Life Insurance Policy	ICC08-130
Limited Payment Interest Sensitive Whole Life Insurance Policy	ICC08-180
Insurance on Children Rider	ICC08-CIR01
Intermediate Endowment Benefit Rider	ICC09-IEB01
FLEX PX ADJ LIFE INS POLICY W/INDEX FEATURE	IUL03 1208 CO
Long Term Care Rider	LTCR01 1005
MONTHLY DISABILITY INCOME RIDER	MDI03 0906
MONTHLY DISABILITY INCOME RIDER	MDI04 0107
NURSING CARE SURRENDER OPTION RIDER	NHS01 0607
RETURN OF PREMIUM RIDER	RPR01 0107
INTERMEDIATE ENDOWMENT BENEFIT	RPR03 0709

Terminal Illness Accelerated Death Benefit Rider	TI01 0305
TERMINAL ILLNESS ACCELERATED DEATH BENEFIT RIDER	TI01 0305
TERM TO AGE 95 LIFE INSURANCE POLICY	TL05 0107 CO
TERM TO AGE 95 LIFE INSURANCE POLICY W/POLICY ENDOWMENT BENEFIT – NONPARTICIPATI	TL06 0107 CO
TERM LIFE INSURANCE POLICY W/ROP RIDER	TL07 0107 CO
FLEXIBLE PREMIUM ADJ LIFE POLICY	UL04 0607 CO
Inheritance Builder – Universal Life	UL05 1207 REV CO
WHOLE LIFE INSURANCE POLICY	WL03 0506 CO
WHOLE LIFE POLICY	WL05 0706 CO
WHOLE LIFE INSURANCE POLICY	WL06 0706 CO
WHOLE LIFE POLICY	WL07 0607 CO
DISABILITY WAIVER OF MONTHLY DEDUCTION RIDER	WMD01 0305
WAIVER OF MONTHLY DEDUCTION RIDER	WMD03 0807
DISABILITY WAIVER OF PREMIUM RIDER	WPR02 0305
WAIVER OF PREMIUM BENEFIT RIDER	WPR09 0307
WAIVER OF PREMIUM RIDER	WPR12 0807

### **Rates**

Transamerica provided rates used for long-term care policies during the period under examination and these rates were reviewed for accuracy to the premium charged and compliance with Colorado insurance law.

### **Underwriting-New Business**

Transamerica provided the following population lists for each of the areas under review:

Annuity new business  
Annuity replacements  
Life new business  
Life replacements  
Long-Term Care new business

### **Annuity, Life and Long-Term Care New Business and Incoming Replacements January 1, 2010-December 31, 2010**

<b>Type</b>	<b>Population</b>	<b>Sample</b>
Annuity- New Business	1,512	114
Annuity- Incoming Replacement	426	86
Life-New Business	2,614	115
Life-Incoming Replacement	595	113
Long-Term Care-New Business	31	31

Transamerica provided a population listing of individual annuity and life contracts issued during the examination period. Using ACL™ software a random sample of 114 annuity new business files was selected from a population of 1,512, and a random sample of eighty six (86) replacement annuity files was selected from a population of 426. In addition, a random sample of 115 life new business files was selected from a population of 2,614, and a random sample of 113 life replacement files was selected from

a population of 595. The entire population of thirty one (31) long-term care new business files was selected for review. All selected policy files were reviewed for compliance with Colorado laws and Company guidelines, when applicable, including suitability information and procedures, when applicable.

**Declinations, Nonforfeitures, Surrenders, Withdrawals and Outgoing Replacements**

Transamerica provided the populations of individual life, annuity, and long-term care applications declined, nonforfeitures, surrenders, withdrawals, and outgoing replacements during the examination period. Using ACL™ software random samples were selected from the following population lists and reviewed for compliance with Colorado insurance law:

**Annuity, Life and Long-Term Care  
Declinations, Nonforfeitures, Surrenders/Withdrawals, Outgoing Replacements  
January 1, 2010-December 31, 2010**

<b>Type</b>	<b>Population</b>	<b>Sample</b>
Annuity-Declinations	16	16
Annuity-Outgoing Replacements	395	84
Annuity Surrenders/Withdrawals	4,240	115
Life-Declinations	1,000	113
Life-Outgoing Replacements	327	84
Life-Nonforfeitures	171	79
Life-Surrenders/Withdrawals	702	113
Long-Term Care-Declined	6	6
Long-Term Care-Nonforfeiture	61	61

**Policyholder Services**

The Company provided various written procedures, manuals, and company directives for underwriting, claims, complaints, replacements and utilization review. These procedures and manuals were reviewed for compliance with Colorado insurance law.

**Claims**

Transamerica provided the populations of annuity paid claims, life paid and denied claims, and long-term care paid and denied claims received during the period under examination. All files were reviewed for compliance with Colorado insurance law. Using ACL™ software, random samples of each population of claims were selected from data lists provided by Transamerica and reviewed for compliance with Colorado insurance laws.

**Annuity, Life and Long-Term Care Claims  
January 1, 2010-December 31, 2010**

<b>Type</b>	<b>Population</b>	<b>Sample</b>
Annuity-Paid	453	83
Life-Paid	295	82
Life-Denied	12	12
Long-Term Care-Paid	5,278	109
Long-Term Care-Denied	2,696	108
Long-Term Care-Over 90 days	4	4

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**EXAMINATION REPORT SUMMARY**

The examination resulted in a total of three (3) findings in which Transamerica was not in compliance with Colorado Insurance Statutes and Regulations. The following is a summary of the examiners' findings.

**Company Operations and Management:** In the area of Company Operations and Management, no issues are addressed in this report.

**Marketing and Sales:** In the area of Marketing and Sales, no issues are addressed in this report.

**Complaints:** In the area of Complaints, no issues are addressed in this report.

**Contract Forms:** The examiners identified two (2) issues in their review of Transamerica's contract forms.

**Issue E1: Failure, in some cases, to adhere to the original time period to claim suicide as a defense for nonpayment of claims as required by Colorado insurance law.**

**Issue E2: Failure to include a compliant extension of benefits provision in a long-term care policy as required by Colorado insurance law.**

**Rates:** In the area of Rates, no issues are addressed in this report.

**New Business and Incoming Replacements:** In the area of new business and incoming replacements, no issues are addressed in this report.

**Cancellations/Declinations/Outgoing Replacements:** The examiners identified one (1) issue in their review of cancellations, declinations and outgoing replacements.

**Issue H1: Failure, in some cases, to provide a replacement notice to policyholders, and/or to provide the notice within the time frame required by Colorado insurance law.**

**Policyholder Services:** In the area of Policyholder Services, no issues are addressed in this report.

**Claim Handling:** In the area of Claim Handling, no issues are addressed in this report.

**Utilization Review:** In the area of Utilization Review, no issues are addressed in this report.

A copy of the MCE Report, if adopted pursuant to § 10-1-205(3)(a), C.R.S., and any subsequent submissions and rebuttals filed by the Company, if applicable, can be obtained upon request from the Division.

Results of previous market conduct examinations (if any) are available on the Division's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Division.



**FACTUAL FINDINGS**

**TRANSAMERICA LIFE INSURANCE COMPANY**

**CONTRACT FORMS**

**Issue E1: Failure, in some cases, to adhere to the original time period to claim suicide as a defense for nonpayment of claims as required by Colorado insurance law.**

Section 10-7-109, C.R.S., Suicide no defense for non-payment, states:

The suicide of a policyholder after the first policy year of any life insurance policy issued by any life insurance company doing business in this state shall not be a defense against the payment of a life insurance policy, whether said suicide was voluntary or involuntary, and whether said policyholder was sane or insane. Nothing in this section is intended or shall be construed to apply to any accident insurance policy insuring against accidental death or death by accidental means or to those parts or provisions of any life insurance policy insuring specifically against accidental death or death by accidental means.

During review of Transamerica's life insurance contract forms, the examiners noted that in some cases the provision that permitted suicide as a defense for the Company's non-payment of life insurance benefits was not in compliance with Colorado insurance law in that the contract provided for the entire one year period wherein suicide can limit the Company's liability to commence again upon policy reinstatement. When a policy is reinstated by the payment of an overdue premium, the reinstatement does not create a new policy, but rather pursuant to Colorado law, restores the old policy. Therefore, the provisions of the policy that were in effect at the time the policy lapsed are restored. Upon reinstatement, the Company may not again commence the one year time frame for the suicide liability limitation as the reinstated policy is not a new policy.

The Suicide Exclusion clause of policy form TL05 0107 CO stated in part:

"If this Policy is Reinstated, this Section will be Reinstated. A new one year period shall apply beginning on the date of Reinstatement. If the Insured, whether sane or insane, dies by suicide within one year from the Reinstatement date, our liability will be limited to an amount equal to the premiums paid from the date of Reinstatement."

Equivalent language was noted in whole life policy form WL03 0506 CO, which stated in part:

"If this Policy is reinstated, then a new one (1) year period shall apply beginning on the date of reinstatement. If the Insured, whether sane or insane, dies by suicide within one (1) year from the date of reinstatement, our liability will be limited to an amount equal to the premiums paid from the date of reinstatement."

The following life insurance policy forms represented as being in use in Colorado during 2010 were found to have re-commenced the one (1) year suicide liability limitation upon policy reinstatement, and therefore did not comply with Colorado insurance law:

<u>Policy Form Number</u>	<u>Description</u>
IUL03 1208 CO	Flex Prem. Adj. Life Ins. Policy w/Index Feature
TL05 0107 CO	Term To Age 95 Life Insurance Policy
TL06 0107 CO	Term to Age 95Life Ins. Policy w/policy endowment benefit
TL07 0107 CO	Term Life Ins. Policy w/ROP rider
UL04 0607 CO	Flexible Premium Adj. Life Policy
WL03 0506 CO	Whole Life Insurance Policy
WL05 0706 CO	Whole Life Policy

WL06 0706 CO  
WL07 0607 CO

Whole Life Insurance Policy  
Whole Life Policy

**Recommendation No. 1:**

Transamerica shall be afforded a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submission or rebuttal as to why it should not be considered in violation of § 10-7-109, C.R.S. In the event Transamerica is unable to provide such documentation, the Company may submit, with its submission or rebuttal, its plan to comply, or documentation showing it is in compliance.

Otherwise, Transamerica shall be required, within sixty (60) days from the date this report is adopted, to provide written evidence to the Division that it has revised the content of all applicable policy forms to reflect the correct provision related to suicide as a defense for the Company's non-payment of a life insurance policy. Within these sixty (60) days, Transamerica shall also provide the Division with specimen copies of all forms containing the correct policy language concerning the referenced provision and provide the proposed date the forms will be implemented and provided to all existing policyholders.

**Issue E2: Failure to include a compliant extension of benefits provision in a long-term care policy as required by Colorado insurance law.**

Colorado Insurance Regulation 4-4-1, Concerning the Requirements for Long-Term Care Insurance, promulgated under the authority of §§ 10-1-109(1), 10-7-113(3), 10-16-107(1), 10-19-106, 10-19-113.7 and 10-3-1110(1), C.R.S., states in part:

...

Section 6 Policy Practices and Provisions

...

- C. Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

Transamerica's Form TLC 1-NH 1001 stated in part:

**EXTENSION OF THE NURSING HOME BENEFIT**

Subject to the Maximum Benefit, termination of this Policy will not affect any claim for a covered Nursing Home stay if such stay began while this Policy was in force and continues without interruption after termination of this Policy. We will not, however, pay benefits for new Nursing Home confinements *or for any part of a confinement during which the reason for the confinement becomes unrelated to the reason for the confinement prior to the termination of the Policy.* We will not pay the portion of the Nursing Home Benefit which is in excess of those benefits We would have paid had this Policy continued in force. This provision will not apply to any other benefit in this Policy. [Emphasis added.]

Transamerica was not in compliance with Colorado insurance law in that the Extension of Benefits clause contained in Form TLC 1-NH 1001 was more restrictive than allowed by Colorado insurance law. Transamerica's extension of benefits provision stated that the Company would not pay benefits "for any part of a confinement during which the reason for the confinement becomes unrelated to the reason for the confinement prior to the termination of the Policy." This policy provision is more restrictive than is permitted by Colorado insurance law, as the Company may not discontinue coverage for a nursing home confinement that continues without interruption even if the reason for the confinement becomes unrelated to the reason for the confinement prior to the termination of the policy.

The following form was not in compliance with Colorado insurance law:

**Policy Form Number**  
TLC-1-NH 1001

**Description**  
Nursing Home Benefit

**Recommendation No. 2:**

Transamerica shall be afforded a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submission or rebuttal as to why it should not be considered in violation of Colorado Insurance Regulation 4-4-1. In the event Transamerica is unable to provide such documentation, the Company may submit, with its submission or rebuttal, its plan to comply, or documentation showing it is in compliance.

Otherwise, Transamerica shall be required, within sixty (60) days from the date this report is adopted, to provide written evidence to the Division that it has revised the content of all applicable policy forms to comply with Colorado Insurance Regulation 4-4-1,(6)(C), extension of benefits when a policy holder is institutionalized, as set forth in this MCE Report. Within these sixty (60) days, Transamerica shall also provide the Division with specimen copies of the referenced forms which shall contain a compliant provision for extension of benefits, as set forth above, and provide the proposed date the forms will be implemented and provided to all existing policyholders.

**CANCELLATIONS/DECLINATIONS/REPLACEMENTS**

**Issue H1: Failure, in some cases, to provide a replacement notice to policyholders, and/or to provide the notice within the time frame required by Colorado insurance law.**

Colorado Insurance Regulation 4-1-4, Replacement of Life Insurance Policies and Annuities, promulgated under the authority of §§ 10-1-109(1) and 10-3-1110(1), C.R.S., states in part:

...

Section 8 Duties of the Existing Insurer

*Where a replacement is involved in the transaction, the existing insurer shall:*

...

- B Send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within five (5) business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five (5) business days of receipt of the request from the policy or contract owner. [Emphasis added.]*

The examiners reviewed a sample of eighty-four (84) outgoing annuity replacement files from Transamerica's annuity replacement register. The examiners noted that in thirteen (13) of the eighty-four (84) (or 15% of the sample) files, Transamerica did not comply with Colorado insurance law in that the files either included no record of a replacement letter being sent to the policy holder, or the replacement letter was sent more than five (5) business days after receipt of the notice that an existing policy was being replaced. The incidence of error is as follows:

**Outgoing Annuity Replacements  
January 1, 2010-December 31, 2010**

Population	Sample Size	Number of Exceptions	Total Error Rate
395	84	13	15%

In addition, the examiners reviewed a sample of eighty-four (84) outgoing life replacement files from Transamerica's outgoing life replacement register. The examiners noted that in fourteen (14) of the eighty four (84) (or 17% of sample) files, Transamerica did not comply with Colorado insurance law in that the files either included no record of a letter being sent to the policy holder, or the letter was sent more than five (5) business days after receipt of the notice that an existing life policy was being replaced. The incidence of error is as follows:

**Outgoing Life Insurance Replacements  
January 1, 2010-December 31, 2010**

Population	Sample Size	Number of Exceptions	Total Error Rate
327	84	14	17%



**Recommendation No. 3:**

Transamerica shall be afforded a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submission or rebuttal as to why it should not be considered in violation of Colorado Insurance Regulation 4-1-4. In the event Transamerica is unable to provide such documentation, the Company may submit with its submission or rebuttal, its plan to comply, or documentation showing it is in compliance

Otherwise, Transamerica shall be required, within sixty (60) days from the date this report is adopted, to provide written evidence to the Division that it has revised its procedures to ensure that a replacement notice letter is sent to all annuity and life policyholders within five (5) business days when a replacement is involved. Within these sixty (60) days, Transamerica shall also provide the Division with copies of the written procedure and documentation of date the procedure will be implemented.

SUMMARY OF ISSUES AND RECOMMENDATIONS		Rec. No.	Page No.
<b>CONTRACT FORMS</b>			
<b>Issue E1: Failure, in some cases, to adhere to the original time period to claim suicide as a defense for nonpayment of claims as required by Colorado insurance law.</b>		1	20
<b>Issue E2: Failure to include a compliant extension of benefits provision in a long-term care policy as required by Colorado insurance law.</b>		2	22
<b>CANCELLATIONS/DECLINATIONS/REPLACEMENTS</b>			
<b>Issue H1: Failure, in some cases, to provide a replacement notice to policyholders, and/or to provide the notice within the time frame required by Colorado insurance law.</b>		3	25

**Examination Report Submission**

**State Market Conduct Examiners**

**Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC  
Examiner-in-Charge**

**David M. Tucker, AIE, FLMI, ACS**

**And**

**Independent Contract Examiners**

**Kathleen M. Bergan, CIE, MCM**

**Earl C. Brown, AIE, CLU, ChFC**

**Howard B. Quinn, AIE, CLU, ChFC, CCP**

**Submit this report on this 29<sup>th</sup> day of February 2012 to:**

**The Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, Colorado 80202**